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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

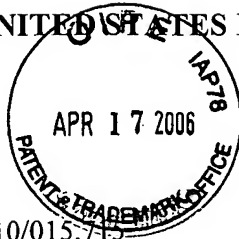
In re application of:

Wei-Qiang Gao, et al.

Application Serial No. 10/015,715

Filed: December 12, 2001

For: **PRO1340 NUCLEIC ACIDS**



) Examiner: Landsman, Robert S.

) Art Unit: 1647

) Confirmation No: 4464

) Attorney's Docket No. 39780-2830 P1C56

) Customer No. 35489

EXPRESS MAIL LABEL NO. EV 765 973 089 US
DATE MAILED: APRIL 17, 2006

CONTINGENT PETITION UNDER 37 CFR §1.78(a)(3)

MAIL STOP PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Dear Sir:

Applicants petition the Commissioner on a contingent basis to accept the benefit of priority to the prior filed non-provisional and PCT applications for the above-identified application, pursuant to 37 CFR §1.78(a)(3).

Applicants have requested reconsideration of the Official Communication mailed on March 28, 2006 stating that Applicants' request for Corrected Filing Receipt would be treated as Petition under §1.181 and the Petition is dismissed.

This Petition is being submitted solely in the event that Applicants request for reconsideration is dismissed.

The above-identified application is a continuation of, and claims priority under 35 USC §120 to, US Application 09/946374 filed 9/4/2001, which is a continuation of, and claims priority under 35 USC §120 to, PCT Application PCT/US00/04342 filed 2/18/2000, which is a continuation-in-part of, and claims priority under 35 USC §120 to, US Application 09/403,297 filed 10/18/1999, now abandoned, which is the National Stage filed under 35 USC §371 of PCT Application PCT/US99/20111 filed 9/1/1999, which claims priority under 35 USC §119 to US Provisional Application 60/101916 filed 9/24/1998.

A first Preliminary Amendment claiming priority to the applications was filed December 12, 2001. A second Preliminary Amendment claiming such priority to the prior-filed applications was submitted on August 29, 2002. Applicants note that the above-identified application was filed on December 12, 2001. Therefore the four month deadline for claiming priority to the prior-filed applications pursuant to 37 CFR §1.78(a)(2)(ii) was April 12, 2002.

Applicants maintain that the first Preliminary Amendment was sufficient to support the claim to priority. However, if the Patent Office determines that this is not the case, Applicants' second Preliminary Amendment clearly supports the priority claim.

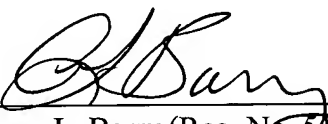
Applicants respectfully submit that the entire delay between the date the claim was due under 37 CFR §1.78(a)(2)(ii) and the date that the second Preliminary Amendment was filed was unintentional.

The Commissioner is authorized to charge any applicable fees for this Petition to Deposit Account No. 08-1641, referencing Attorney's Docket No. 39780-2830 P1C56. Such payment is believed to be in the amount of \$1,370 for the petition fee required by 37 C.F.R. §1.17(t).

Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: April 12, 2006

By: 
Anna L. Barry (Reg. No. 51,436)

HELLER EHRMAN LLP
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4/17/06 4:03 PM (39780.2830)

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FEE TRANSMITTAL

APR 17 2006
Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1,370.00

Complete if Known

Application Number 10/015,715
Filing Date December 12, 2001
First Named Inventor Wei-Qiang Gao
Examiner Name Robert S. Landsman
Art Unit 1647
Attorney Docket No. 39780-2830 P1C56

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number 08-1641(39780-2830P1C56)

Deposit Account Name HELLER EHRMAN, LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
		1001	300	Utility filing fee	
		1002	200	Design filing fee	
		1003	200	Plant filing fee	
		1004	300	Reissue filing fee	
		1005	200	Provisional filing fee	
SUBTOTAL (1)					(\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description
		1202	50	Claims in excess of 20
		1201	200	Independent claims in excess of 3
		1203	360	Multiple dependent claim, if not paid
		1204	200	** Reissue independent claims over original patent
		1205	50	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
		1051	130	Surcharge - late filing fee or oath	
		1052	50	Surcharge - late provisional filing fee or cover sheet	
		1053	130	Non-English specification	
		1812	2,520	For filing a request for <i>ex parte</i> reexamination	
		1804	920*	Requesting publication of SIR prior to Examiner action	
		1805	1,840*	Requesting publication of SIR after Examiner action	
		1251	120	Extension for reply within first month	
		1252	450	Extension for reply within second month	
		1253	1,020	Extension for reply within third month	
		1254	1,590	Extension for reply within fourth month	
		1255	2,160	Extension for reply within fifth month	
		1401	500	Notice of Appeal	
		1402	500	Filing a brief in support of an appeal	
		1403	1,000	Request for oral hearing	
		1451	1,510	Petition to institute a public use proceeding	
		1452	500	Petition to revive - unavoidable	
		1453	1,370	Petition under 37 CFR 1.17(t)	1,370.00
		1501	1,400	Utility issue fee (or reissue)	
		1502	800	Design issue fee	
		1503	1,100	Plant issue fee	
		1460	130	Petitions to the Commissioner	
		1807	50	Processing fee under 37 CFR 1.17(q)	
		1806	180	Submission of Information Disclosure Stmt	
		8021	40	Recording each patent assignment per property (times number of properties)	
		1809	790	Filing a submission after final rejection (37 CFR 1.129(a))	
		1810	790	For each additional invention to be examined (37 CFR 1.129(b))	
		1801	790	Request for Continued Examination (RCE)	
		1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 1,370

SUBMITTED BY

Name (Print/Type) Anna L. Barry Registration No. 51,436 Telephone (650) 324-7000
Signature [Signature] Date April 17, 2006

WARNING! Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.